

Executive Summary – Enforcement Matter – Case No. 49759
Baytown Energy Center, LLC
RN100226067
Docket No. 2014-1802-AIR-E

Order Type:

Findings Agreed Order

Findings Order Justification:

Three or more enforcement actions (NOVs, orders, etc.) over the prior five year period for the same violation(s).

Media:

AIR

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

Baytown Energy Center, 8605 Farm-to-Market Road 1405, near Baytown, Chambers County

Type of Operation:

Natural gas-fired cogeneration power plant

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: May 15, 2015

Comments Received: No

Penalty Information

Total Penalty Assessed: \$66,188

Amount Deferred for Expedited Settlement: \$0

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$33,094

Total Due to General Revenue: \$0

Payment Plan: N/A

Supplemental Environmental Project ("SEP") Conditional Offset: \$33,094

Name of SEP: Railroad Commission of Texas (Third-Party Pre-Approved)

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - Satisfactory

Major Source: Yes

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: April 2014

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Baytown Energy Center, LLC
RN100226067
Docket No. 2014-1802-AIR-E

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: September 30, 2014 through October 10, 2014

Date(s) of NOE(s): November 19, 2014

Violation Information

1. Failed to include a signed certification of accuracy and completeness with a report required by Federal Operating Permit ("FOP") No. 02133 [30 TEX. ADMIN. CODE §§ 122.143(4) and (15) and 122.165(a)(7), TEX. HEALTH & SAFETY CODE § 382.085(b), and FOP No. 02133, General Terms and Conditions].
2. Failed to operate within the permitted concentration limits for nitrogen oxides ("NOx") and ammonia ("NH₃") from the Heat Recovery Steam Generating ("HRSG") Stack, Emission Point Numbers ("EPNs") CTG1, CTG2, and CTG3 [30 TEX. ADMIN. CODE §§ 101.20(3), 116.115(c), and 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), New Source Review Permit Nos. 41996, PSDTX953, and N020, Special Conditions Nos. 5 and 8, and FOP No. 02133, Special Terms and Conditions No. 7].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Respondent has implemented the following corrective measures:

- a. On December 16, 2013, performed maintenance on the programmable logic controller to prevent inaccurate readings from the continuous emissions monitoring system;
- b. On February 28, 2014, replaced and upgraded the catalyst for EPN CTG3 to prevent NOx and NH₃ concentration limit exceedances from EPN CTG3;
- c. On June 17, 2014, repaired the HRSG Unit tube leak that was causing inaccurate temperature readings from one of the thermocouples that indicate HRSG Unit temperature;
- d. By August 20, 2014, conducted training on procedures for startup and for monitoring the function of various components to maintain compliance, including checking the control valve and the NH₃ stop valve, for operators at the Plant;

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Docket No. 2014-1802-AIR-E

e. On October 23, 2014, submitted a signed certification of accuracy and completeness for the deviation report dated February 28, 2014 for the reporting period from August 5, 2013 through February 4, 2014;

f. On November 24, 2014, replaced and upgraded the catalyst for EPN CTG2 to prevent NOx and NH3 concentration limit exceedances from EPN CTG2; and

g. On February 14, 2015, replaced and upgraded the catalyst for EPN CTG1 to prevent NOx and NH3 concentration limit exceedances from EPN CTG1.

Technical Requirements:

The Order will require the Respondent to implement and complete a SEP (See SEP Attachment A).

Litigation Information

Date Petition(s) Filed: N/A

Date Answer(s) Filed: N/A

SOAH Referral Date: N/A

Hearing Date(s): N/A

Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Rachel Bekowies, Enforcement Division, Enforcement Team 4, MC 149, (512) 239-2608; Candy Garrett, Enforcement Division, MC 219, (512) 239-1456

TCEQ SEP Coordinator: Stuart Beckley, SEP Coordinator, Enforcement Division, MC 219, (512) 239-3565

Respondent: W. Thaddeus Miller, Chief Legal Officer, Baytown Energy Center, LLC, P.O. Box 840, Baytown, Texas 77522

Anthony Ligato, Plant Manager, Baytown Energy Center, LLC, P.O. Box 840, Baytown, Texas 77522

Respondent's Attorney: N/A

Attachment A
Docket Number: 2014-1802-AIR-E
SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	Baytown Energy Center, LLC
Penalty Amount:	Sixty-Six Thousand One Hundred Eighty-Eight Dollars (\$66,188)
SEP Offset Amount:	Thirty-Three Thousand Ninety-Four Dollars (\$33,094)
Type of SEP:	Contribution to a Third-Party Pre-Approved SEP
Third-Party Administrator:	Railroad Commission of Texas
Project Name:	<i>Alternative Fuels Clean School Bus Replacement Program</i>
Location of SEP:	Statewide, Preference for Chambers County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative penalty amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The SEP Offset Amount is set forth above and such offset is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

a. Project

The Respondent shall contribute the SEP Offset Amount to the Third-Party Administrator named above. The contribution will be to the **Railroad Commission of Texas** for the *Alternative Fuels Clean School Bus Replacement Program*. The contribution will be used in accordance with the SEP between the Third-Party Administrator and the TCEQ (the "Project"). Specifically, the contribution will be used to reduce nitrogen oxides, volatile organic compounds, carbon monoxide, and particulate matter emissions by replacing older diesel buses with newer buses that meet more stringent emission standards.

The Third-Party Administrator shall use the SEP Offset Amount for up to 100% of the purchase price of a propane or natural gas powered school bus that is model year 2010 or newer to public school districts and public charter schools to replace a diesel school bus that is model year 2002 or older. The SEP will be done in accordance with all federal, state, and local environmental laws and regulations.

All dollars contributed will be used for the direct cost of implementing the Project, including but not limited to supplies, materials, and equipment. Any portion of this contribution that is not spent on the specifically identified SEP may, at the discretion of the Executive Director ("ED"), be applied to another pre-approved SEP.

The Respondent's signature affixed to this Agreed Order certifies that it has no prior commitment to make this contribution and that it is being contributed solely in an effort to settle this enforcement action. The Respondent shall not profit in any manner from this SEP.

b. Environmental Benefit

This SEP will directly benefit air quality by reducing harmful exhaust emissions which contribute to the formation of ozone and may cause or exacerbate a number of respiratory diseases, including asthma. In addition, by encouraging less school bus idling, this SEP contributes to public awareness of environmental matters.

c. Minimum Expenditure

The Respondent shall contribute at least the SEP Offset Amount to the Third-Party Administrator and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Offset Amount to the Third-Party Administrator. The Respondent shall make the check payable to **Railroad Commission of Texas SEP** and shall mail the contribution with a copy of the Agreed Order to:

Alternative Energy Division
Railroad Commission of Texas
P.O. Box 12967
Austin, Texas 78711-2967

3. Records and Reporting

Concurrent with the payment of the SEP Offset Amount, the Respondent shall provide the Enforcement Division SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset Amount due to the Third-Party Administrator. The Respondent shall mail a copy of the check and transmittal letter to:

Texas Commission on Environmental Quality
Enforcement Division
Attention: SEP Coordinator, MC 219
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this Attachment A, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Sections 2 and 3 above, the ED may require immediate payment of all or part of the SEP Offset Amount.

In the event the ED determines that the Respondent failed to fully implement and complete the Project, the Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and as set forth in the attached Agreed Order. After receiving notice of failure to complete the SEP, the Respondent shall include the docket number of the attached Agreed Order and a note that the enclosed payment is for the reimbursement of a SEP; shall make the check payable to "Texas Commission on Environmental Quality;" and shall mail it to:

Texas Commission on Environmental Quality
Litigation Division
Attention: SEP Coordinator, MC 175
P.O. Box 13087
Austin, Texas 78711-3087

5. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent, must include a clear statement that **the Project was performed as part of the settlement of an enforcement action brought by the TCEQ**. Such statements include advertising, public relations, and press releases.

6. Recognition

The Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP Offset Amount identified in this Agreed Order has not been, and shall not be, included as a SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

DATES	Assigned	24-Nov-2014	Screening	3-Dec-2014	EPA Due	
	PCW	6-Mar-2015				

RESPONDENT/FACILITY INFORMATION

Respondent	Baytown Energy Center, LLC
Reg. Ent. Ref. No.	RN100226067
Facility/Site Region	12-Houston
Major/Minor Source	Major

CASE INFORMATION

Enf./Case ID No.	49759	No. of Violations	2
Docket No.	2014-1802-AIR-E	Order Type	Findings
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Rachel Bekowies
		EC's Team	Enforcement Team 4
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** **\$37,500**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History **29.0%** Enhancement **Subtotals 2, 3, & 7** **\$10,875**

Notes: Enhancement for two NOVs with same/similar violations and one agreed order containing a denial of liability. Reduction for one Notice of Intent to conduct an audit.

Culpability **No** **0.0%** Enhancement **Subtotal 4** **\$0**

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5** **-\$937**

Economic Benefit **50.0%** Enhancement* **Subtotal 6** **\$18,750**

Total EB Amounts: \$182,701
Estimated Cost of Compliance: \$1,801,750

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$66,188**

OTHER FACTORS AS JUSTICE MAY REQUIRE **0.0%** **Adjustment** **\$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount **\$66,188**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$66,188**

DEFERRAL **0.0%** Reduction **Adjustment** **\$0**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

No deferral is recommended for Findings Orders.

PAYABLE PENALTY **\$66,188**

Screening Date 3-Dec-2014

Docket No. 2014-1802-AIR-E

PCW

Respondent Baytown Energy Center, LLC

Policy Revision 4 (April 2014)

Case ID No. 49759

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN100226067

Media [Statute] Air

Enf. Coordinator Rachel Bekowies

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	2	10%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	1	-1%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 29%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for two NOVs with same/similar violations and one agreed order containing a denial of liability. Reduction for one Notice of Intent to conduct an audit.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 29%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 29%

Screening Date 3-Dec-2014

Docket No. 2014-1802-AIR-E

PCW

Respondent Baytown Energy Center, LLC

Policy Revision 4 (April 2014)

Case ID No. 49759

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN100226067

Media [Statute] Air

Enf. Coordinator Rachel Bekowies

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 122.143(4) and (15) and 122.165(a)(7), Tex. Health & Safety Code § 382.085(b), and Federal Operating Permit ("FOP") No. 02133, General Terms and Conditions

Violation Description Failed to include a signed certification of accuracy and completeness with a report required by FOP No. 02133. Specifically, the deviation report dated February 28, 2014 for the reporting period from August 5, 2013 through February 4, 2014 was submitted to the TCEQ Houston Regional Office without a signed certification of accuracy and completeness.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

	Major	Moderate	Minor
Release Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

	Major	Moderate	Minor
Falsification	x		

Percent 15.0%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 1

231 Number of violation days

mark only one
with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$3,750

One single event is recommended for the one report submitted without the required certification.

Good Faith Efforts to Comply

25.0%

Reduction \$937

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary	
Ordinary	x
N/A	(mark with x)

Notes

The Respondent completed corrective actions on October 23, 2014, prior to the November 19, 2014 Notice of Enforcement.

Violation Subtotal \$2,813

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$8

Violation Final Penalty Total \$5,776

This violation Final Assessed Penalty (adjusted for limits) \$5,776

Economic Benefit Worksheet

Respondent Baytown Energy Center, LLC
Case ID No. 49759
Reg. Ent. Reference No. RN100226067
Media Air
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$250	6-Mar-2014	23-Oct-2014	0.63	\$8	n/a	\$8

Notes for DELAYED costs

Estimated cost to submit a signed certification of accuracy and completeness for the deviation report dated February 28, 2014 for the reporting period from August 5, 2013 through February 4, 2014. The Date Required is the date the deviation report was due. The Final Date is the date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$250

TOTAL

\$8

Screening Date 3-Dec-2014

Docket No. 2014-1802-AIR-E

PCW

Respondent Baytown Energy Center, LLC

Policy Revision 4 (April 2014)

Case ID No. 49759

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN100226067

Media [Statute] Air

Enf. Coordinator Rachel Bekowies

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code §§ 101.20(3), 116.115(c), and 122.143(4), Tex. Health & Safety Code § 382.085(b), New Source Review Permit Nos. 41996, PSDTX953, and N020, Special Conditions Nos. 5 and 8, and FOP No. 02133, Special Terms and Conditions No. 7

Violation Description

Failed to operate within the permitted concentration limits for nitrogen oxides ("NOx") and ammonia ("NH3") from the Heat Recovery Steam Generating ("HRSG") Stack, Emission Point Numbers ("EPNs") CTG1, CTG2, and CTG3. Specifically, the NOx concentration limit of 3.5 parts per million by volume on a dry basis ("ppmvd"), based on a three-hour rolling average concentration, was exceeded five times from EPN CTG1 from September 28, 2013 through April 16, 2014, two times from EPN CTG2 from October 26, 2013 through December 8, 2013, and nine times from EPN CTG3 from September 3, 2013 through June 3, 2014. The NH3 concentration limit of 10 ppmvd, based on a one-hour rolling average concentration, was exceeded one time from EPN CTG1 on February 12, 2014, nine times from EPN CTG2 from September 4, 2013 through March 5, 2014, and five times from EPN CTG3 from September 4, 2013 through December 12, 2013.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

	Major	Moderate	Minor
Release Actual			x
Potential			

Percent 15.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

During the instances of non-compliance, NOx concentrations ranged from 3.6 ppmvd to 20.6 ppmvd and NH3 concentrations ranged from 10.1 ppmvd to 18.4 ppmvd. Human health or the environment has been exposed to insignificant amounts of pollutants that do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 9

273 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$33,750

Nine quarterly events, three each per EPN, are recommended based on the instances of non-compliance that occurred during the period of September 3, 2013 through June 3, 2014.

Good Faith Efforts to Comply

0.0%

Reduction \$0

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith effort criteria for this violation.

Violation Subtotal \$33,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$182,693

Violation Final Penalty Total \$60,413

This violation Final Assessed Penalty (adjusted for limits) \$60,413

Economic Benefit Worksheet

Respondent Baytown Energy Center, LLC
Case ID No. 49759
Reg. Ent. Reference No. RN100226067
Media Air
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment	\$1,800,000	3-Sep-2013	14-Feb-2015	1.45	\$8,696	\$173,918	\$182,614
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$1,000	3-Sep-2013	17-Jun-2014	0.79	\$3	\$52	\$55
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling	\$500	3-Sep-2013	20-Aug-2014	0.96	\$24	n/a	\$24
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Actual cost to replace and upgrade the catalysts for EPNs CTG1, CTG2, and CTG3 (\$1,800,000). Estimated costs to repair the HRSG Unit tube leak (\$500) that was causing inaccurate temperature readings from one of the thermocouples that indicate HRSG Unit temperature; conduct training (\$500) on procedures for startup and for monitoring the function of various components to maintain compliance, including checking the control valve and the NH3 stop valve, for operators at the Plant; and perform maintenance on the programmable logic controller ("PLC") (\$500) to prevent inaccurate readings from the continuous emissions monitoring system. The September 3, 2013 Date Required is the first date of non-compliance. The February 14, 2015 Final Date is the date all catalysts were replaced and upgraded by. The June 17, 2014 Final Date is the date the HRSG Unit tube leak was repaired, and maintenance on the PLC was performed by this date. The August 20, 2014 Final Date is the date training for operators was conducted.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,801,500

TOTAL

\$182,693

The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



Compliance History Report

PUBLISHED Compliance History Report for CN600376073, RN100226067, Rating Year 2014 which includes Compliance History (CH) components from September 1, 2009, through August 31, 2014.

Customer, Respondent, or Owner/Operator: CN600376073, Baytown Energy Center, LLC **Classification:** SATISFACTORY **Rating:** 2.27

Regulated Entity: RN100226067, BAYTOWN ENERGY CENTER **Classification:** SATISFACTORY **Rating:** 2.27

Complexity Points: 19 **Repeat Violator:** NO

CH Group: 06 - Electric Power Generation

Location: 8605 FARM-TO-MARKET ROAD 1405 NEAR BAYTOWN, TEXAS 77523-8668, CHAMBERS COUNTY

TCEQ Region: REGION 12 - HOUSTON

ID Number(s):

AIR OPERATING PERMITS ACCOUNT NUMBER CI0184T

AIR NEW SOURCE PERMITS PERMIT 41996

AIR NEW SOURCE PERMITS ACCOUNT NUMBER CI0184T

AIR NEW SOURCE PERMITS AFS NUM 4807100089

AIR NEW SOURCE PERMITS REGISTRATION 116107

AIR EMISSIONS INVENTORY ACCOUNT NUMBER CI0184T

AIR OPERATING PERMITS PERMIT 2133

AIR NEW SOURCE PERMITS REGISTRATION 49622

AIR NEW SOURCE PERMITS EPA PERMIT PSDTX953

AIR NEW SOURCE PERMITS REGISTRATION 93224

AIR NEW SOURCE PERMITS EPA PERMIT N020

INDUSTRIAL AND HAZARDOUS WASTE EPA ID TXR000043976

INDUSTRIAL AND HAZARDOUS WASTE SOLID WASTE REGISTRATION # (SWR) 86845

Compliance History Period: September 01, 2009 to August 31, 2014 **Rating Year:** 2014 **Rating Date:** 09/01/2014

Date Compliance History Report Prepared: January 29, 2015

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: January 29, 2010 to January 29, 2015

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

Name: Rachel Bekowies

Phone: (512) 239-2608

Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? YES
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO
- 3) If **YES** for #2, who is the current owner/operator? N/A
- 4) If **YES** for #2, who was/were the prior owner(s)/operator(s)? N/A
- 5) If **YES**, when did the change(s) in owner or operator occur? N/A

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

1 Effective Date: 05/25/2012 ADMINORDER 2011-1747-AIR-E (1660 Order-Agreed Order With Denial)

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 117, SubChapter B 117.310(c)(2)(A)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)

Rqmt Prov: Permit 41996, SC Nos. 5 and 8 PA

Special Terms and Conditions 6 OP

Description: Failed to operate within the permitted concentration limits for nitrogen oxides ("NOx") and ammonia from the

combined-cycle turbine unit exhaust stacks: EPNs CTG1, CTG2 and CTG3. Specifically, during the reporting period from August 5, 2009 to August 4, 2010, the Respondent exceeded the 3-hour rolling average concentration of 3.5 parts per million, volumetric dry ("ppmvd") for NOx 78 times, and exceeded the 10 ppmvd 1-hour rolling average limit for ammonia 108 times.

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):

Item 1	May 20, 2010	(801685)
Item 2	April 08, 2011	(900051)
Item 3	November 14, 2011	(957315)
Item 4	June 15, 2012	(1013687)
Item 5	August 06, 2013	(1101162)
Item 6	January 15, 2014	(1134219)
Item 7	January 31, 2014	(1134217)

E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

1	Date:	02/28/2014	(1134478)	CN600376073
	Self Report?	NO		Classification: Minor
	Citation:	30 TAC Chapter 116, SubChapter B 116.115(c) 30 TAC Chapter 122, SubChapter B 122.143(4) 5C THSC Chapter 382 382.085(b) Special Condition 6 PERMIT Special Term & Condition 3(C)(iii)(1) OP Special Term & Condition 7 OP		
	Description:	Failure to perform visible emissions observations for Cooling Tower (CWT-1) and the Diesel Fire Water Pump. (Category C1)		
	Self Report?	NO		Classification: Minor
	Citation:	30 TAC Chapter 117, SubChapter B 117.345(f)(10) 30 TAC Chapter 117, SubChapter B 117.345(f)(6) 30 TAC Chapter 122, SubChapter B 122.143(4) 5C THSC Chapter 382 382.085(b) Special Term & Condition 1A OP		
	Description:	Failure to record all instances of operation for the diesel firewater pump engine. (Category C3)		
	Self Report?	NO		Classification: Moderate
	Citation:	30 TAC Chapter 116, SubChapter B 116.115(c) 30 TAC Chapter 122, SubChapter B 122.143(4) 5C THSC Chapter 382 382.085(b) Special Condition 1 PERMIT Special Term & Condition 7 OP		
	Description:	Failure to limit carbon monoxide (CO) below the Maximum Allowable Emissions Rate (MAER). (Category B13)		
	Self Report?	NO		Classification: Moderate
	Citation:	30 TAC Chapter 116, SubChapter B 116.115(c) 30 TAC Chapter 122, SubChapter B 122.143(4) 5C THSC Chapter 382 382.085(b) Special Condition 8 PERMIT Special Term & Condition 7 OP		
	Description:	Failure to limit ammonia (NH3) slip below the 10 ppmvd concentration limit. (Category B14)		
	Self Report?	NO		Classification: Moderate
	Citation:	30 TAC Chapter 116, SubChapter B 116.115(c) 30 TAC Chapter 122, SubChapter B 122.143(4) 5C THSC Chapter 382 382.085(b) Special Condition 5 PERMIT Special Term & Condition 7 OP		
	Description:	Failure to limit NOx concentrations below the limit of 3.5 ppmvd. (Category B14)		
	Self Report?	NO		Classification: Minor
	Citation:	30 TAC Chapter 122, SubChapter B 122.143(4) 30 TAC Chapter 122, SubChapter B 122.145(2)(A) 5C THSC Chapter 382 382.085(b)		

General Terms & Conditions OP
Description: Failure to report all instances of deviations. (Category C3)

2 Date: 11/19/2014 (1193262) CN600376073
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
FOP ST&C 3(A)(iv)(3) OP
Description: Failure to conduct quarterly visible emission observations of the diesel driven fire
pump (EPN: ENG). (Category C1)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
FOP Special Term and Condition 7 OP
NSR Special Condition 1 PERMIT
Description: Failure to maintain the ammonia (NH3) pounds per hour (lb/hr) below the
Maximum Allowable Emissions Rate (MAER). (Category C4)

F. Environmental audits:

Notice of Intent Date: 08/13/2012 (1035469)
No DOV Associated

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

Component Appendices

Appendix A

All NOVs Issued During Component Period 1/29/2010 and 1/29/2015

- 1 Date: 02/12/2010 (781193) CN600376073
Classification: Minor
- Self Report? NO For Informational Purposes Only
- Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
FOP O-02133 Special Term & Condition 6 OP
NSR Permit 41996 Special Condition 8 PERMIT
- Description: Failure to keep ammonia concentrations below the permitted limit. (CATEGORY B18 Violation)
- Classification: Minor
- Self Report? NO For Informational Purposes Only
- Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
FOP O-02133 Special Term & Condition 6 OP
NSR Permit 41996 Special Condition 5 PERMIT
- Description: Failure to keep NOx concentrations below the permitted limit. (CATEGORY B18 Violation)
- Classification: Minor
- Self Report? NO For Informational Purposes Only
- Citation: 30 TAC Chapter 117, SubChapter B 117.340(c)(1)(C)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
FOP O-02133 Special Term & Condition 6 OP
NSR Permit 41996 Special Condition 16 PERMIT
- Description: Failure to maintain the CEMS unit. (CATEGORY B18 Violation)
- 2 Date: 08/31/2011 (879374) CN600376073
Classification: Moderate
- Self Report? NO For Informational Purposes Only
- Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
Special Condition 1 PERMIT
Special Terms and Conditions 6 OP
- Description: Failure to meet the MAERT limits for NOx, NH3, and CO.
- Classification: Moderate
- Self Report? NO For Informational Purposes Only
- Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
Special Condition 16 PERMIT
Special Terms and Conditions 6 OP
- Description: Failure to maintain CEMS unit.
- Classification: Moderate
- Self Report? NO For Informational Purposes Only
- Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
30 TAC Chapter 122, SubChapter B 122.146(2)
5C THSC Chapter 382 382.085(b)
Special Terms and Conditions 8 OP
- Description: Failure to submit permit compliance certification within 30 days of the end of the certification period.
- 3 Date: 03/08/2012 (982969) CN600376073
Classification: Minor
- Self Report? NO For Informational Purposes Only
- Citation: 30 TAC Chapter 117, SubChapter B 117.345(c)(1)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
Special Condition 1A OP
- Description: Failure to submit four (4) stack test reports 60 days after conducting the Relative Accuracy Test Audit Cat C-3

Date: 11/30/2012 (1043456)

CN600376073

Classification: Minor

Self Report? NO

For Informational Purposes Only

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 Special Condition 5 PERMIT
 Special Term and Condition 4 OP

Description: Failure to comply with permitted NOx concentration of 3.5 parts per million by volume dry(Category B14).

Classification: Minor

Self Report? NO

For Informational Purposes Only

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)

5C THSC Chapter 382 382.085(b)
 Special Condition 8 PERMIT
 Special Term and Condition 4 OP

Description: Failure to comply with the NH3 concentration limit of 10 ppmvd (Category B14).

Classification: Minor

Self Report? NO

For Informational Purposes Only

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 5C THSC Chapter 382 382.085(b)
 Special Condition 16 PERMIT
 Special Term and Condition 4 OP

Description: Failure to comply with the NH3 30.90 pounds per hour limit (Category B14).

5*

Date: 02/28/2014 (1134478)

CN600376073

Classification: Minor

Self Report? NO

For Informational Purposes Only

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 5C THSC Chapter 382 382.085(b)
 Special Condition 6 PERMIT
 Special Term & Condition 3(C)(iii)(1) OP
 Special Term & Condition 7 OP

Description: Failure to perform visible emissions observations for Cooling Tower (CWT-1) and the Diesel Fire Water Pump. (Category C1)

Classification: Minor

Self Report? NO

For Informational Purposes Only

Citation: 30 TAC Chapter 117, SubChapter B 117.345(f)(10)
 30 TAC Chapter 117, SubChapter B 117.345(f)(6)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 5C THSC Chapter 382 382.085(b)
 Special Term & Condition 1A OP

Description: Failure to record all instances of operation for the diesel firewater pump engine. (Category C3)

Classification: Moderate

Self Report? NO

For Informational Purposes Only

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 5C THSC Chapter 382 382.085(b)
 Special Condition 1 PERMIT
 Special Term & Condition 7 OP

Description: Failure to limit carbon monoxide (CO) below the Maximum Allowable Emissions Rate (MAER). (Category B13)

Classification: Moderate

Self Report? NO

For Informational Purposes Only

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 5C THSC Chapter 382 382.085(b)
 Special Condition 8 PERMIT
 Special Term & Condition 7 OP

Description: Failure to limit ammonia (NH3) slip below the 10 ppmvd concentration limit. (Category B14)

Classification: Moderate

Self Report? NO

For Informational Purposes Only

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 5C THSC Chapter 382 382.085(b)
 Special Condition 5 PERMIT
 Special Term & Condition 7 OP
 Description: Failure to limit NOx concentrations below the limit of 3.5 ppmvd. (Category B14)
 Classification: Minor

Self Report? NO For Informational Purposes Only

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
 30 TAC Chapter 122, SubChapter B 122.145(2)(A)
 5C THSC Chapter 382 382.085(b)
 General Terms & Conditions OP
 Description: Failure to report all instances of deviations. (Category C3)

6 Date: 11/19/2014 (1193262) CN600376073
 Classification: Minor

Self Report? NO For Informational Purposes Only

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 5C THSC Chapter 382 382.085(b)
 FOP ST&C 3(A)(iv)(3) OP
 Description: Failure to conduct quarterly visible emission observations of the diesel driven fire pump (EPN: ENG). (Category C1)
 Classification: Moderate

Self Report? NO For Informational Purposes Only

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 5C THSC Chapter 382 382.085(b)
 FOP Special Term and Condition 7 OP
 NSR Special Condition 1 PERMIT
 Description: Failure to maintain the ammonia (NH3) pounds per hour (lb/hr) below the Maximum Allowable Emissions Rate (MAER). (Category C4)

* NOVs applicable for the Compliance History rating period 9/1/2009 to 8/31/2014

Appendix B

All Investigations Conducted During Component Period January 29, 2010 and January 29, 2015

Item 1	February 11, 2010**	(781193) For Informational Purposes Only
Item 2*	May 20, 2010**	(801685) For Informational Purposes Only
Item 3*	April 08, 2011**	(900051) For Informational Purposes Only
Item 4	August 31, 2011**	(879374) For Informational Purposes Only
Item 5	October 20, 2011**	(957455) For Informational Purposes Only
Item 6*	November 14, 2011**	(957315) For Informational Purposes Only
Item 7	March 05, 2012**	(982969) For Informational Purposes Only
Item 8	May 24, 2012**	(1002679) For Informational Purposes Only
Item 9*	June 15, 2012**	(1013687) For Informational Purposes Only

Item 10	November 30, 2012**	(1043456) For Informational Purposes Only
Item 11*	August 06, 2013**	(1101162) For Informational Purposes Only
Item 12*	January 15, 2014**	(1134219) For Informational Purposes Only
Item 13*	January 31, 2014**	(1134217) For Informational Purposes Only
Item 14	February 28, 2014**	(1134478) For Informational Purposes Only
Item 15	June 06, 2014**	(1172353) For Informational Purposes Only
Item 16	November 19, 2014	(1193262) For Informational Purposes Only

* No violations documented during this investigation

**Investigation applicable for the Compliance History Rating period between 09/01/2009 and 08/31/2014.

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
BAYTOWN ENERGY CENTER, LLC
RN100226067**

§
§
§
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§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2014-1802-AIR-E

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Baytown Energy Center, LLC ("Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this agreement to the Commission.

The Respondent understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondent.

The Commission makes the following Findings of Fact and Conclusions of Law:

I. FINDINGS OF FACT

1. The Respondent owns and operates a natural gas-fired cogeneration power plant at 8605 Farm-to-Market Road 1405 near Baytown, Chambers County, Texas (the "Plant").

2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. During a record review conducted from September 30, 2014 through October 10, 2014, TCEQ staff documented that the Respondent failed to include a signed certification of accuracy and completeness with a report required by Federal Operating Permit ("FOP") No. O2133. Specifically, the deviation report dated February 28, 2014 for the reporting period from August 5, 2013 through February 4, 2014 was submitted to the TCEQ Houston Regional Office without a signed certification of accuracy and completeness.
4. During a record review conducted from September 30, 2014 through October 10, 2014, TCEQ staff documented that the Respondent failed to operate within the permitted concentration limits for nitrogen oxides ("NOx") and ammonia ("NH₃") from the Heat Recovery Steam Generating ("HRSG") Stack, Emission Point Numbers ("EPNs") CTG1, CTG2, and CTG3. Specifically, the NOx concentration limit of 3.5 parts per million by volume on a dry basis ("ppmvd"), based on a three-hour rolling average concentration, was exceeded five times from EPN CTG1 from September 28, 2013 through April 16, 2014, two times from EPN CTG2 from October 26, 2013 through December 8, 2013, and nine times from EPN CTG3 from September 3, 2013 through June 3, 2014. The NH₃ concentration limit of 10 ppmvd, based on a one-hour rolling average concentration, was exceeded one time from EPN CTG1 on February 12, 2014, nine times from EPN CTG2 from September 4, 2013 through March 5, 2014, and five times from EPN CTG3 from September 4, 2013 through December 12, 2013.
5. The Respondent received notice of the violations on November 24, 2014.
6. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Plant:
 - a. On December 16, 2013, performed maintenance on the programmable logic controller to prevent inaccurate readings from the continuous emissions monitoring system;
 - b. On February 28, 2014, replaced and upgraded the catalyst for EPN CTG3 to prevent NOx and NH₃ concentration limit exceedances from EPN CTG3;
 - c. On June 17, 2014, repaired the HRSG Unit tube leak that was causing inaccurate temperature readings from one of the thermocouples that indicate HRSG Unit temperature;
 - d. By August 20, 2014, conducted training on procedures for startup and for monitoring the function of various components to maintain compliance, including checking the control valve and the NH₃ stop valve, for operators at the Plant;

- e. On October 23, 2014, submitted a signed certification of accuracy and completeness for the deviation report dated February 28, 2014 for the reporting period from August 5, 2013 through February 4, 2014;
- f. On November 24, 2014, replaced and upgraded the catalyst for EPN CTG2 to prevent NOx and NH3 concentration limit exceedances from EPN CTG2; and
- g. On February 14, 2015, replaced and upgraded the catalyst for EPN CTG1 to prevent NOx and NH3 concentration limit exceedances from EPN CTG1.

II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 382, TEX. WATER CODE ch. 7, and the rules of the Commission.
2. As evidenced by Findings of Fact No. 3, the Respondent failed to include a signed certification of accuracy and completeness with a report required by FOP No. O2133, in violation of 30 TEX. ADMIN. CODE §§ 122.143(4) and (15) and 122.165(a)(7), TEX. HEALTH & SAFETY CODE § 382.085(b), and FOP No. O2133, General Terms and Conditions.
3. As evidenced by Findings of Fact No. 4, the Respondent failed to operate within the permitted concentration limits for NOx and NH3 from the HRSG Stack, EPNs CTG1, CTG2, and CTG3, in violation of 30 TEX. ADMIN. CODE §§ 101.20(3), 116.115(c), and 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), New Source Review Permit Nos. 41996, PSDTX953, and N020, Special Conditions Nos. 5 and 8, and FOP No. O2133, Special Terms and Conditions No. 7.
4. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
5. An administrative penalty in the amount of Sixty-Six Thousand One Hundred Eighty-Eight Dollars (\$66,188) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. The Respondent has paid Thirty-Three Thousand Ninety-Four Dollars (\$33,094) of the administrative penalty and Thirty-Three Thousand Ninety-Four Dollars (\$33,094) shall be conditionally offset by the Respondent's completion of a Supplemental Environmental Project ("SEP").

III. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The Respondent is assessed an administrative penalty in the amount of Sixty-Six Thousand One Hundred Eighty-Eight Dollars (\$66,188) as set forth in Section II, Paragraph 5 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Baytown Energy Center, LLC, Docket No. 2014-1802-AIR-E" to:

Financial Administration Division, Revenue Operations Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088
2. The Respondent shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section II, Paragraph 5 above, Thirty-Three Thousand Ninety-Four Dollars (\$33,094) of the assessed administrative penalty shall be offset with the condition that the SEP defined in Attachment A, incorporated herein by reference, is implemented by the Respondent. The Respondent's obligation to pay the conditionally offset portion of the assessed administrative penalty shall be discharged upon final completion of all provisions of the SEP agreement.
3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the

Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

6. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
7. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
8. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
9. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
10. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission


For the Executive Director

5/29/15
Date

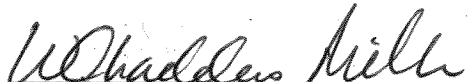
I, the undersigned, have read and understand the attached Agreed Order in the matter of Baytown Energy Center, LLC. I am authorized to agree to the attached Agreed Order on behalf of Baytown Energy Center, LLC, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, Baytown Energy Center, LLC waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.


Signature

4/17/15
Date

W. Thaddeus Miller
Name (Printed or typed)
Authorized Representative of
Baytown Energy Center, LLC

duff
Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Section III, Paragraph 1 of this Agreed Order.

Attachment A
Docket Number: 2014-1802-AIR-E
SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	Baytown Energy Center, LLC
Penalty Amount:	Sixty-Six Thousand One Hundred Eighty-Eight Dollars (\$66,188)
SEP Offset Amount:	Thirty-Three Thousand Ninety-Four Dollars (\$33,094)
Type of SEP:	Contribution to a Third-Party Pre-Approved SEP
Third-Party Administrator:	Railroad Commission of Texas
Project Name:	<i>Alternative Fuels Clean School Bus Replacement Program</i>
Location of SEP:	Statewide, Preference for Chambers County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative penalty amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The SEP Offset Amount is set forth above and such offset is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

a. Project

The Respondent shall contribute the SEP Offset Amount to the Third-Party Administrator named above. The contribution will be to the **Railroad Commission of Texas** for the *Alternative Fuels Clean School Bus Replacement Program*. The contribution will be used in accordance with the SEP between the Third-Party Administrator and the TCEQ (the "Project"). Specifically, the contribution will be used to reduce nitrogen oxides, volatile organic compounds, carbon monoxide, and particulate matter emissions by replacing older diesel buses with newer buses that meet more stringent emission standards.

The Third-Party Administrator shall use the SEP Offset Amount for up to 100% of the purchase price of a propane or natural gas powered school bus that is model year 2010 or newer to public school districts and public charter schools to replace a diesel school bus that is model year 2002 or older. The SEP will be done in accordance with all federal, state, and local environmental laws and regulations.

All dollars contributed will be used for the direct cost of implementing the Project, including but not limited to supplies, materials, and equipment. Any portion of this contribution that is not spent on the specifically identified SEP may, at the discretion of the Executive Director ("ED"), be applied to another pre-approved SEP.

Baytown Energy Center, LLC
Agreed Order - Attachment A

The Respondent's signature affixed to this Agreed Order certifies that it has no prior commitment to make this contribution and that it is being contributed solely in an effort to settle this enforcement action. The Respondent shall not profit in any manner from this SEP.

b. Environmental Benefit

This SEP will directly benefit air quality by reducing harmful exhaust emissions which contribute to the formation of ozone and may cause or exacerbate a number of respiratory diseases, including asthma. In addition, by encouraging less school bus idling, this SEP contributes to public awareness of environmental matters.

c. Minimum Expenditure

The Respondent shall contribute at least the SEP Offset Amount to the Third-Party Administrator and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Offset Amount to the Third-Party Administrator. The Respondent shall make the check payable to **Railroad Commission of Texas SEP** and shall mail the contribution with a copy of the Agreed Order to:

Alternative Energy Division
Railroad Commission of Texas
P.O. Box 12967
Austin, Texas 78711-2967

3. Records and Reporting

Concurrent with the payment of the SEP Offset Amount, the Respondent shall provide the Enforcement Division SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset Amount due to the Third-Party Administrator. The Respondent shall mail a copy of the check and transmittal letter to:

Texas Commission on Environmental Quality
Enforcement Division
Attention: SEP Coordinator, MC 219
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this Attachment A, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Sections 2 and 3 above, the ED may require immediate payment of all or part of the SEP Offset Amount.

In the event the ED determines that the Respondent failed to fully implement and complete the Project, the Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and as set forth in the attached Agreed Order. After receiving notice of failure to complete the SEP, the Respondent shall include the docket number of the attached Agreed Order and a note that the enclosed payment is for the reimbursement of a SEP; shall make the check payable to "Texas Commission on Environmental Quality;" and shall mail it to:

Texas Commission on Environmental Quality
Litigation Division
Attention: SEP Coordinator, MC 175
P.O. Box 13087
Austin, Texas 78711-3087

5. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent, must include a clear statement that **the Project was performed as part of the settlement of an enforcement action brought by the TCEQ**. Such statements include advertising, public relations, and press releases.

6. Recognition

The Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP Offset Amount identified in this Agreed Order has not been, and shall not be, included as a SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.